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Date: November 2, 2006	Phone Number	Fax Number
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From: Kevin J. Zilka		

Docket No.: NAI1P445/00.174.01   **App. No: 09/785,240**

Total Number of Pages Being Transmitted, Including Cover Sheet: 31

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Practitioner's Docket No. NAI1P445/00.174.01   *PATENT*

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Matthew Thomas Hart

Application No.: 09/785,240   Group No.: 2145
Filed: 02/20/2001   Examiner: Choudhury, Azizul Q.
For: UNWANTED E-MAIL FILTERING SYSTEM INCLUDING VOTING FEEDBACK

Mail Stop Appeal Briefs – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION--37 C.F.R. § 41.37)

1. Transmitted herewith, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on 5/3/2006 and in response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed 7/5/2006.

2. STATUS OF APPLICANT

    This application is on behalf of other than a small entity.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING
_ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)   **37 C.F.R. § 1.10***
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Signature

Date: 11/2/06

Melissa D. Orvis

(type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief—page 1 of 2

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3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

other than a small entity $500.00

Appeal Brief fee due   **$500.00**

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(5)) for three months:

Fee: $1,020.00

If an additional extension of time is required, please consider this a petition therefor.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee $500.00
Extension fee (if any) $1,020.00

TOTAL FEE DUE   **$1,520.00**

6. FEE PAYMENT

Authorization is hereby made to charge the amount of **$1,520.00** to Deposit Account No. 50-1351 (Order No. NAI1P445).

A duplicate of this transmittal is attached.

7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAI1P445).

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Signature of Practitioner
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PATENT

Practitioner's Docket No. NAI1P445/00.174.01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Matthew Thomas Hart

Application No.: 09/785,240   Group No.: 2145
Filed: 02/20/2001   Examiner: Choudhury, Azizul Q.
For: UNWANTED E-MAIL FILTERING SYSTEM INCLUDING VOTING FEEDBACK

Mail Stop Appeal Briefs – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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    Review mailed 7/5/2006.

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CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*
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22313-1450.

37 C.F.R. § 1.8(a)   **37 C.F.R. § 1.10***
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☒ facsimile transmitted to the Patent and Trademark Office, (571) 273 - 8300.

Date: 11/2/06   *(signature)* Melissa D. Orvis
                                       Signature

                                       Melissa D. Orvis

                                       _____
                                       (type or print name of person certifying)

* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or
transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to
Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment
calculations.

Transmittal of Appeal Brief—page 1 of 2

3.   FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

other than a small entity $500.00

Appeal Brief fee due $500.00

4.   EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant petitions for an extension of time under 37 C.F.R. § 1.136 (fees: 37 C.F.R. § 1.17(a)(1)-(5)) for three months:

Fee: $1,020.00

If an additional extension of time is required, please consider this a petition therefor.

5.   TOTAL FEE DUE

The total fee due is:

Appeal brief fee $500.00
Extension fee (if any) $1,020.00

TOTAL FEE DUE   **$1,520.00**

6.   FEE PAYMENT

Authorization is hereby made to charge the amount of $1,520.00 to Deposit Account No. 50-1351 (Order No. NAI1P445).

A duplicate of this transmittal is attached.

7.   FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NAI1P445).

_____
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Transmittal of Appeal Brief—page 2 of 2

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- 1 -

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:)
)
Matthew Thomas Hart) Group Art Unit: 2145
)
Application No. 09/785,240) Examiner: Choudhury, Azizul Q.
)
Filed: 02/20/2001) Date: 11/2/2006
)
For: UNWANTED E-MAIL FILTERING)
SYSTEM INCLUDING VOTING)
FEEDBACK)
)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ATTENTION: Board of Patent Appeals and Interferences

APPEAL BRIEF (37 C.F.R. § 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on 05/03/2006 and in response to the Notice of Panel Decision from Pre-Appeal Brief Review mailed 07/05/2006.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(i)):

I   REAL PARTY IN INTEREST
II   RELATED APPEALS AND INTERFERENCES
III   STATUS OF CLAIMS
IV   STATUS OF AMENDMENTS
V   SUMMARY OF CLAIMED SUBJECT MATTER
VI   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- 2 -

The final page of this brief bears the practitioner's signature.

- 3 -

I REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is McAfee, Inc.

- 4 -

II RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c) (1)(ii))

With respect to other prior or pending appeals, interferences, or related judicial proceedings that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no other such appeals, interferences, or related judicial proceedings.

A Related Proceedings Appendix is appended hereto.

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III STATUS OF CLAIMS (37 C.F.R. § 41.37(c) (1)(iii))

A.   TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 9-11, 21-23, 33-35, and 37-43

B.   STATUS OF ALL THE CLAIMS IN APPLICATION

1.   Claims withdrawn from consideration: None
2.   Claims pending: 9-11, 21-23, 33-35, and 37-43
3.   Claims allowed: None
4.   Claims rejected: 9-11, 21-23, 33-35, and 37-43
5.   Claims cancelled: 1-8, 12-20, 24-32, and 36

C.   CLAIMS ON APPEAL

The claims on appeal are: 9-11, 21-23, 33-35, and 37-43

See additional status information in the Appendix of Claims.

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IV STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))

As to the status of any amendment filed subsequent to final rejection, there are no such amendments after final.

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V SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))

With respect to a summary of Claim 9, as shown in Figures 2, 3 and 5, a computer program product is provided which includes a computer program operable to control a computer to process received e-mail messages. In use, e-mail filtering logic is operable to receive an e-mail message (e.g. see item 10 of Figure 2, etc.) and to apply at least one test to identify a received e-mail message as a potentially unwanted e-mail message (e.g. see item 12, 14, and 18 of Figure 2, etc.). Further, message forwarding logic is operable to forward said potentially unwanted e-mail message (e.g. see item 26 of Figure 3, etc.) to its addressee together with a prompt for said addressee (e.g. see item 22 of Figure 2, etc.) to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message (e.g. see item 28 of Figure 3, etc.). In addition, a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message (e.g. see item 48 of Figure 5, etc.). Also, said e-mail filtering logic uses a scoring algorithm responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said received e-mail message as a potentially unwanted e-mail message (e.g. see item 12 of Figure 2, etc.). See, for example, page 6 line 12-page 7, line 9; and page 7, line 17-page 8, line 13 et al.

With respect to a summary of Claim 21, as shown in Figures 2, 3 and 5, a method is provided for processing received e-mail messages. In use, an e-mail message is received (e.g. see item 10 of Figure 2, etc.) and at least one test is applied to identify a received e-mail message as a potentially unwanted e-mail message (e.g. see item 12, 14, and 18 of Figure 2, etc.). Further, said potentially unwanted e-mail message is forwarded (e.g. see item 26 of Figure 3, etc.) to its addressee together with a prompt for said addressee (e.g. see item 22 of Figure 2, etc.) to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message (e.g. see item 28 of Figure 3, etc.). In addition, a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message (e.g. see item 48 of Figure 5, etc.). Also, a scoring algorithm is utilized responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said

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received e-mail message as a potentially unwanted e-mail message (e.g. see item 12 of Figure 2, etc.). See, for example, page 6 line 12-page 7, line 9; and page 7, line 17-page 8, line 13 et al.

With respect to a summary of Claim 33, as shown in Figures 2, 3 and 5, an apparatus is provided to process received e-mail messages. In use, an e-mail filter is operable to receive an e-mail message (e.g. see item 10 of Figure 2, etc.) and to apply at least one test to identify a received e-mail message as a potentially unwanted e-mail message (e.g. see item 12, 14, and 18 of Figure 2, etc.). Further, a message forwarder is operable to forward said potentially unwanted e-mail message (e.g. see item 26 of Figure 3, etc.) to its addressee together with a prompt for said addressee (e.g. see item 22 of Figure 2, etc.) to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message (e.g. see item 28 of Figure 3, etc.). In addition, a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message (e.g. see item 48 of Figure 5, etc.). Also, said e-mail filter uses a scoring algorithm responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said received e-mail message as a potentially unwanted e-mail message (e.g. see item 12 of Figure 2, etc.). See, for example, page 6 line 12-page 7, line 9; and page 7, line 17-page 8, line 13 et al.

VI GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R. § 41.37(c)(1)(vi))

Following, under each issue listed, is a concise statement setting forth the corresponding ground of rejection.

Issue # 1: The Examiner has rejected Claims 9-11, 21-23, 33-35, and 37-43 under 35 U.S.C. 103(a) as being unpatentable over Pollack et al. (U.S. Patent No. 6,546,390) in view of Dieterman (U.S. Patent No. 6,393,464).

- 10 -

VII ARGUMENT (37 C.F.R. § 41.37(c)(1)(vii))

The claims of the groups noted below do not stand or fall together. In the present section, appellant explains why the claims of each group are believed to be separately patentable.

Issue # 1:

The Examiner has rejected Claims 9-11, 21-23, 33-35, and 37-43 under 35 U.S.C. 103(a) as being unpatentable over Pollack et al. (U.S. Patent No. 6,546,390) in view of Dieterman (U.S. Patent No. 6,393,464).

Group #1: Claims 9, 11, 21, 23, 33, 35, and 38-39

With respect to the independent Claims 9, 21, and 33, and specifically with respect to appellant's claimed "message forwarding logic operable to forward said potentially unwanted e-mail message to its addressee together with a prompt for said addressee to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message" (see the same or similar, but not necessarily identical language in the independent claims), the Examiner has stated that Pollack "does not specifically disclose the prompt that is sent to the user with the potentially unwanted (spam) email," but that Dieterman, (Col. 5, lines 24-46) "discloses prompting an administrator for approval of a potentially unwanted e-mail message."

Appellant respectfully asserts that, in Dieterman, messages that require approval are placed in an inbox for an <u>administrator</u> to approve before being put in a user's inbox. Thus, since Dieterman only discloses administrator approval, Dieterman does <u>not</u> teach "forward[ing] said potentially unwanted e-mail message to its addressee together with <u>a prompt for said addressee to provide feedback</u> as to whether or not said received e-mail message is an unwanted e-mail message," as appellant specifically claims (emphasis added).

In the Advisory Action mailed 03/23/2006, the Examiner, in response, has argued "the Dieterman art teaches means for approval of potentially unwanted email (Dieterman, column 5, lines 24-46)." Appellant again respectfully asserts that the excerpt from Dieterman relied upon

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by the Examiner discloses that "[a]n <u>administrator</u> thereafter may approve each such message, step 59" (emphasis added). Additionally, the administrator approval is further described in Figure 5, step 59 as an "[a]pproval by [a] <u>guardian</u>" (emphasis added). However, "administrator approval" and "[a]pproval by [a] guardian," as in Dieterman, clearly fails to even suggest a technique where "message forwarding logic [is] operable to forward said potentially unwanted e-mail message to its <u>addressee together with a prompt</u> for <u>said addressee to provide feedback</u> as to whether or not said received e-mail message is an unwanted e-mail message," as claimed by appellant (emphasis added).

Still with respect to the independent claims, the Examiner has relied on the following excerpt from Pollock to make a prior art showing of appellant's claimed technique "wherein a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message" (see the same or similar, but not necessarily identical language in the independent claims).

"The method may further include steps of developing message information based on the incoming message, the relevancy scores, and the profiles of the plurality of users to the plurality of users, and delivering the message information to at least some of the plurality of users. The user profiles database may include relevancy thresholds for the plurality of users, the step of developing the message information may include a step of comparing the relevancy scores to the relevancy thresholds; and the step of delivering the message information may include a step of delivering the message information only to those users whose relevancy scores satisfy the corresponding relevancy thresholds. The user profiles database may include a maximum number of users to whom the message information is to be delivered, and the step of delivering the message information may include a step of delivering the message information to no greater than the maximum number of users. The step of delivering the message information may include a step of sending the message information to the at least some of the plurality of users as an electronic mail message, or a step of updating a message display using the message information." (Col. 3, lines 51-60)

Appellant respectfully asserts that such excerpt does not even suggest any sort of "<u>threshold</u> of a predetermined number of votes," as appellant claims (emphasis added). In particular, Pollack only modifies a user's profile based on the <u>user's</u> feedback indicating either a positive or negative preference for the message information. Clearly, Pollack also fails to disclose <u>votes</u>, as appellant claims, but instead only discloses a user's feedback. Thus, Pollack only uses a single

- 12 -

instance of a user's feedback in order to modify the same user's profile, and therefore does not utilize a "threshold of a predetermined number of votes [that] positively identifies said potentially unwanted e-mail message as an unwanted e-mail message," as appellant claims.

In the Advisory Action mailed 03/23/2006, the Examiner, in response, has argued that "Pollack teaches how feedback is permitted by the user (column 6, line 45 – column 7, line 3, Pollack)." Appellant respectfully asserts that the excerpt relied upon by the Examiner merely teaches that "the delivery mechanism 118 may then only deliver the message information 120 to users whose relevancy scores satisfy their relevancy thresholds" (emphasis added). Again, appellant notes Pollock only teaches that "a user 122 may interactively provide user feedback 124 to modify the user's profile in the user profiles 112 to reflect changes in his or her preferences" (Col.7, lines 52-55), and thus Pollock only uses a single instance of a user's feedback to determine relevancy. However, using "relevancy thresholds" to determine the relevancy of message information to a user profile, as in Pollock, simply fail to meet a technique where "a rule...is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message," as claimed (emphasis added).

In addition, the Examiner has argued that Pollack teaches that "if a threshold is met, then a rule is applied (column 3, lines 51-60, Pollack)." Appellant respectfully asserts that the excerpt from Pollack relied upon by the Examiner teaches that "receiving user feedback may include ... receiving an indication from the user that the user has expressed a positive preference..." or "a negative preference for the message information" (emphasis added). Simply disclosing "user feedback" with a "positive preference" or "negative preference," as in Pollack, simply fails to disclose "a rule associated with said e-mail filtering logic [that] is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message," as claimed by appellant (emphasis added). Therefore, only appellant teaches a technique "wherein a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message," as claimed by appellant (emphasis added).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Appellant thus respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. A notice of allowance or a proper prior art showing of all of appellant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Group #2: Claims 10, 22, 34

With respect to Claims 10, 22, and 34, the Examiner has relied on Col. 6, lines 30-32 and Col. 9, line 60-Col. 10, line 19 in Pollock to make a prior art showing of appellant's claimed technique "wherein said potentially unwanted e-mail message is forwarded encapsulated within a markup language document including a hypertext markup language document capable of being displayed utilizing a network browser, the document providing voting buttons to allow said addressee to provide said feedback."

Appellant respectfully asserts that the excerpts relied on by the Examiner only disclose posting message information to a web page and "present[ing] a graphical display of the preference matrix 200 that is directly editable by the user." Clearly, only displaying a <u>preference matrix</u>, as in Pollock, does not even suggest that such preference matrix is displayed in association with the forwarding of the potentially unwanted e-mail message, in the context claimed by appellant. In particular, appellant specifically claims that "said potentially unwanted <u>e-mail message</u> is forwarded <u>encapsulated within a markup language document including a hypertext markup language document</u> capable of being <u>displayed</u> utilizing a network browser, the <u>document providing voting buttons</u> to allow said addressee to provide said feedback," as claimed (emphasis added).

- 14 -

In the Advisory Action mailed 03/23/2006, the Examiner, in response, has argued that "the Pollack art allows for a web interface (column 6, lines 30-32, Pollack) and a voting interface (column 9, line 60 – column 10, line 19, Pollack)." Appellant respectfully disagrees and asserts that the excerpts from Pollack relied upon by the Examiner merely teach that "the delivery mechanism 118 may post the message information 120 to a web page accessible to the user 122" (emphasis added). Clearly posting message information to a web page, as in Pollack, fails to meet a technique "wherein said potentially unwanted e-mail message is forwarded encapsulated within a markup language document including a hypertext markup language document capable of being displayed utilizing a network browser," as claimed by appellant (emphasis added).

Additionally, appellant respectfully asserts that Col. 10, lines 10-12 in Pollack discloses that "[t]he system 100 may present a graphical display of the preference matrix 200 that is directly editable by the user 122" (emphasis added). However, a "graphical display of the preference matrix," as in Pollock, simply fails to meet appellant's claimed technique where "the document provid[es] voting buttons to allow said addressee to provide said feedback," as claimed by appellant (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Group #3: Claim 37

With respect to Claim 37, the Examiner has relied on Col. 6, lines 19-23 in Pollock to make a prior art showing of appellant's claimed technique "wherein said scoring algorithm is responsive to an addressee list of said received e-mail message." Specifically, the Examiner has stated that such excerpt in Pollock teaches that "a design allows filtering by many means including author." Appellant respectfully asserts that the excerpt relied on by the Examiner only teaches that the "message information 120 may include...the author of the incoming message." Thus, Pollock only discloses that message information that is sent to a recipient may include an author (i.e. addressor) of the associated message. Clearly, such teaching does not even suggest any sort of

scoring algorithm, as appellant claims, and especially not where the "scoring algorithm is responsive to an addressee list of said received e-mail message," as claimed (emphasis added).

In the Advisory Action mailed 03/23/2006, the Examiner, in response, has argued that "the Pollack art again teaches how a user is able to provide feedback and that information is used towards 'relevancy scores' (column 4, lines 2-3, Pollack)." Appellant respectfully disagrees and asserts the excerpt relied upon by the Examiner teaches a "step of comparing the relevancy scores to the relevancy thresholds" which clearly fails to disclose any sort of "scoring algorithm, let alone appellant's claimed "scoring algorithm ... responsive to an addressee list of said received e-mail message," as claimed by appellant (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Group #4: Claim 40

With respect to Claim 40, the Examiner has relied on Col. 5, lines 24-46 in Dieterman to make a prior art showing of appellant's claimed technique "wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail if an administrator identifies said e-mail message as being wanted."

Specifically, the Examiner has stated that, in Dieterman, it "is also described how a message prompt does not always have to be sent." Appellant respectfully asserts that such excerpt only teaches that "[t]he identity of the sender of each incoming email message is compared to identities appearing on the allowed list" such that for an email where "the sender...is determined to not appear on the allowed list...[the email] is placed in the inbox for messages requiring approval" for an administrator to approve. Then, only "[i]f approval is granted...[is] the email message paced in the normal inbox."

Clearly, Dieterman teaches a situation where the approval is required by the administrator, and is never required by the addressee. Thus, Dieterman does not disclose a situation where a "prompt

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for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail if an administrator identifies said e-mail message as being wanted," because Dieterman does not disclose any sort of "prompt for said addressee," as appellant claims (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Group #5: Claim 41

With respect to Claim 41, the Examiner has again relied on Col. 7, lines 48-64 in Pollack to make a prior art showing of appellant's claimed technique "wherein said rule associated with said e-mail filtering logic is confirmed manually."

> "An additional advantage of the system 100 is that the user profiles 112 may be dynamically and interactively modified to influence the operation of the system 100. For example, as described in more detail below, the user 122 may interactively provide user feedback 124 to modify the user's profile in the user profiles 112 to reflect changes in his or her preferences. Such changes may be performed relatively quickly and may influence the relevancy evaluations performed by the system 100 immediately. In contrast, changes made to profiles of users in conventional systems typically are not made noticeable to the user until the next time the system processes a batch of incoming messages. As described above, such processing may only occur infrequently. As a result, users of such systems have limited control over the quality and quantity of messages that are delivered to them." (Pollack, Col. 7, lines 48-64 - emphasis added)

The Examiner has argued that "Pollack teaches a design that allow[s] users to add/delete preferences (rules) dynamically or interactively (manually)". Appellant respectfully disagrees and asserts that the excerpt from Pollack relied upon by the Examiner discloses that "the user 122 may interactively provide user feedback 124 to modify the user's profile in the user profiles 112 to reflect changes in his or her preferences" (emphasis added). Clearly, the mere disclosure that the user may interactively modify the user's profile to reflect changes in his or her preferences, as in Pollock, fails to even suggest a technique "wherein said rule associated with said e-mail filtering logic is confirmed manually," as claimed by appellant (emphasis added).

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In addition, in Col. 9, line 60-Col. 10, line 19, Pollack teaches that "the user 122 may indicate in the user feedback 124 that the incoming message 102 is not of interest to the user 122" (emphasis added). Further, Pollack teaches that "[t]he user feedback 124 may indicate an ordering of messages represented in the message feature database 106" (emphasis added). In addition, Pollack teaches that "[t]he system 100 may present a graphical display of the preference matrix 200 that is directly editable by the user 122, in which case the user feedback 124 represents changes made by the user 122 to the preference matrix 200" (emphasis added). However, merely disclosing that user feedback consists of indicating that an incoming message is not of interest to the user, indicating an ordering of messages, and representing changes made by the user to the preference matrix, as in Pollack, clearly fails to even suggest a technique "wherein said rule associated with said e-mail filtering logic is confirmed manually," as claimed by appellant (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

> *Group #6: Claim 42*

With respect to Claim 42, the Examiner has relied on Col. 3, line 61-Col. 4, line 18 and Col. 6, line 45-Col. 7, line 3 in Pollack to make a prior art showing of appellant's claimed technique "wherein said manual confirmation is not required if a predefined number of highly trusted users positively identify said potentially unwanted e-mail message as an unwanted e-mail message."

Specifically, the Examiner has stated that such excerpt from Pollack teaches "a design with means for filtering based on the consensus of user feedbacks." Appellant respectfully disagrees. Appellant respectfully asserts that such excerpts from Pollack only relate to utilizing relevancy scores to determine whether an email is relevant to a user and thus whether the email should be sent to the user. Since such excerpts in Pollack only relate to whether to send an email to a user in the first place, appellant respectfully asserts that such does not teach appellant's specific claim language, namely that a "manual confirmation is not required if a predefined number of highly

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trusted users positively identify said potentially unwanted e-mail message as an unwanted e-mail message," as claimed (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Group #7: Claim 43

With respect to Claim 43, the Examiner has yet again relied on Col. 7, lines 48-64 in Pollack to make a prior art showing of appellant's claimed technique "wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail and said rule is not added if said rule is not confirmed manually."

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"An additional advantage of the system 100 is that the user profiles
112 may be dynamically and interactively modified to influence the
operation of the system 100. For example, as described in more detail
below, the user 122 may interactively provide user feedback 124 to
modify the user's profile in the user profiles 112 to reflect changes
in his or her preferences. Such changes may be performed relatively
quickly and may influence the relevancy evaluations performed by the
system 100 immediately. In contrast, changes made to profiles of users
in conventional systems typically are not made noticeable to the user
until the next time the system processes a batch of incoming messages.
As described above, such processing may only occur infrequently. As a
result, users of such systems have limited control over the quality and
quantity of messages that are delivered to them." (Pollack, Col. 7,
lines 48-64 - emphasis added)
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The Examiner has argued that "Pollack teaches a design that allow[s] users to add/delete preferences (rules) dynamically or interactively (manually)". Appellant respectfully disagrees and asserts that the excerpt from Pollack relied upon by the Examiner merely discloses that "the user 122 may interactively provide user feedback 124 to modify the user's profile in the user profiles 112 to reflect changes in his or her preferences" (emphasis added). However, the mere disclosure that the user may interactively modify the user's profile to reflect changes in preferences, as in Pollock, fails to even suggest a technique "wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail and said

rule is not added if said rule is not confirmed manually," as claimed by appellant (emphasis added).

Again, appellant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

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VIII CLAIMS APPENDIX (37 C.F.R. § 41.37(c)(1)(viii))

The text of the claims involved in the appeal (along with associated status information) is set forth below:

1.-8. (Cancelled)

9. (Previously Presented) A computer program product comprising a computer program operable to control a computer to process received e-mail messages, said computer program comprising:

(i)   e-mail filtering logic operable to receive an e-mail message and to apply at least one test to identify a received e-mail message as a potentially unwanted e-mail message; and

(ii)   message forwarding logic operable to forward said potentially unwanted e-mail message to its addressee together with a prompt for said addressee to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message;

wherein a rule associated with said e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message;

wherein said e-mail filtering logic uses a scoring algorithm responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said received e-mail message as a potentially unwanted e-mail message.

10. (Original) A computer program product as claimed in claim 9, wherein said potentially unwanted e-mail message is forwarded encapsulated within a markup language document including a hypertext markup language document capable of being displayed utilizing a network browser, the document providing voting buttons to allow said addressee to provide said feedback.

11. (Original) A computer program product as claimed in claim 9, wherein said message filtering logic is operable to add a new test to those applied to said received e-mail messages in dependence upon said feedback.

12.-20. (Cancelled)

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21. (Previously Presented) A method of processing received e-mail messages, said method comprising the steps of:

(i)   receiving an e-mail message and to apply at least one test to identify a received e-mail message as a potentially unwanted e-mail message; and

(ii)   forwarding said potentially unwanted e-mail message to its addressee together with a prompt for said addressee to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message;

wherein a rule associated with e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message;

wherein a scoring algorithm is utilized responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said received e-mail message as a potentially unwanted e-mail message.

22. (Original) A method as claimed in claim 21, wherein said potentially unwanted e-mail message is forwarded encapsulated within a markup language document including a hypertext markup language document capable of being displayed utilizing a network browser, the document providing voting buttons to allow said addressee to provide said feedback.

23. (Original) A method as claimed in claim 21, further comprising adding a new test to those applied to said received e-mail messages in dependence upon said feedback.

24.-32. (Cancelled)

33. (Previously Presented) Apparatus for processing received e-mail messages, said apparatus comprising:

(i)   an e-mail filter operable to receive an e-mail message and to apply at least one test to identify a received e-mail message as a potentially unwanted e-mail message; and

(ii)   a message forwarder operable to forward said potentially unwanted e-mail message to its addressee together with a prompt for said addressee to provide feedback as to whether or not said received e-mail message is an unwanted e-mail message;

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wherein a rule associated with e-mail filtering logic is added if a threshold of a predetermined number of votes positively identifies said potentially unwanted e-mail message as an unwanted e-mail message;

wherein said e-mail filter uses a scoring algorithm responsive to identification of predetermined words within said received e-mail message and a message size of said received e-mail message to identify said received e-mail message as a potentially unwanted e-mail message.

34. (Original) Apparatus as claimed in claim 33, wherein said potentially unwanted e-mail message is forwarded encapsulated within a markup language document including a hypertext markup language document capable of being displayed utilizing a network browser, the document providing voting buttons to allow said addressee to provide said feedback.

35. (Original) Apparatus as claimed in claim 33, wherein said message filter is operable to add a new test to those applied to said received e-mail messages in dependence upon said feedback.

36. (Cancelled)

37. (Previously Presented) A computer program product as claimed in claim 9, wherein said scoring algorithm is responsive to an addressee list of said received e-mail message.

38. (Previously Presented) A computer program product as claimed in claim 9, further comprising test creating logic operable to allow creation of a new test to be added to said at least one test provided by said e-mail filtering logic.

39. (Previously Presented) A computer program product as claimed in claim 9, wherein said computer program is arranged to receive and process e-mail messages before said e-mail messages reach an associated target e-mail server.

40. (Previously Presented) A computer program product as claimed in claim 9, wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail if an administrator identifies said e-mail message as being wanted.

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41. (Previously Presented) A computer program product as claimed in claim 9, wherein said rule associated with said e-mail filtering logic is confirmed manually.

42. (Previously Presented) A computer program product as claimed in claim 41, wherein said manual confirmation is not required if a predefined number of highly trusted users positively identify said potentially unwanted e-mail message as an unwanted e-mail message.

43. (Previously Presented) A computer program product as claimed in claim 41, wherein said prompt for said addressee to provide feedback is not forwarded with said potentially unwanted e-mail and said rule is not added if said rule is not confirmed manually.

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IX EVIDENCE APPENDIX (37 C.F.R. § 41.37(c)(1)(ix))

There is no such evidence.

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X RELATED PROCEEDING APPENDIX (37 C.F.R. § 41.37(c)(1)(x))

There is no such related proceeding.

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In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NAI1P445/00.174.01).

Respectfully submitted,

By: _____   Date: ___11/2/0__

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